

HB

237

COMMITTEE REPORT

2/28/75

HOUSE

Mr. Speaker:

Date 3/20/75

The Committee on Judiciary has had HB 237

under consideration. A Majority of the members of the Committee

() recommends it DO PASS

() recommends it DO NOT PASS

() recommends it DO PASS WITH ATTACHED AMENDMENT(S)

recommends it BE REPLACED WITH CS FOR HB 237 AND THAT

CS FOR HB 237 DO PASS

() "and" recommends it BE REFERRED TO THE _____

COMMITTEE

() reports it back WITHOUT RECOMMENDATION

() "other"

Members signing the Majority report:

Jerry Landman _____
Richard King _____
Ed Bradley _____
Steve G. Ott _____

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Jerry Landman Chairman

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

Pouch H01, Juneau 99811

~~XXXXXXXXXXXX~~

April 7, 1975

The Honorable Terry Gardiner
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Gardiner:

In reply to your letter of March 7 we are pleased to submit the following information concerning total number of divorces over the past five years involving children and the number filed by men as compared to women.

Year	Number Filed by Men	Number Filed by Women	Total
1970	306	679	985
1971	317	698	1,015
1972	377	862	1,239
1973	394	773	1,167
1974	446	876	1,322

We keep no records relating to disputed cases as this is a function of the Alaska Court System and the information does not appear on the divorce document.

Our information is gleaned from the divorce document and only basic statistical information is kept. This also holds true for information concerning custody.

Honorable Terry Gardiner

-2-

April 7, 1975

May we suggest that these same questions be asked of the Court System, they may be able to give you more assistance in areas of dispute and custody.

If there is any other way we might be of assistance, do not hesitate to ask.

Sincerely yours,

Francis S. Williamson

Francis S.L. Williamson

Commissioner

Original sponsor: Bradner, Beirne,
Brown, et al

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 237

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to mediation in divorce actions."

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

8 * Section 1. It is the intent of this Act to provide a means of mediation
9 between parties in divorce actions, in order to achieve a mutually agreeable
10 settlement in termination of the marriage, and to thereby minimize disruption
11 of the household, adverse effects on minor children, and litigation between
12 the parties.

13 * Sec. 2. AS 09.55 is amended by adding a new section to read:

14 Sec. 09.55.115. MEDIATION. (a) At any time within 30 days after
15 a complaint or cross-complaint in a divorce action is filed, a party to
16 the action may submit a request to the court for mediation, for the
17 purpose of achieving a mutually agreeable settlement in termination of
18 the marriage. When a party requests settlement mediation, the other
19 party shall answer the request on the record, and the judge may order
20 mediation. When no request for mediation is made, the court may at any
21 time order the parties to submit to mediation if there is reason to
22 believe that mediation may result in a more satisfactory settlement
23 between the parties.

24 (b) The court appoints the mediator. The court may appoint
25 another judge, ^{himself - deleted} a standing master, or any other person the court finds
26 suitable to act as mediator.

27 (c) Mediation shall be conducted informally as a conference or
28 series of conferences. The parties to the action and a representative
29 of any minor children of the marriage shall attend. Counsel for the

1 parties may attend.

2 (d) After the first conference, either party may withdraw, or the
3 mediator may terminate mediation if he determines that mediation efforts
4 are unsuccessful. Upon withdrawal by either party or termination by the
5 mediator, the mediator shall notify the court that mediation efforts
6 have failed, and the divorce action shall proceed in the usual manner.

7 (e) Upon submission of the parties to mediation under this section
8 divorce proceedings then pending shall be stayed for a period of 30 days
9 or until the court is notified that mediation efforts have failed. All
10 court orders made under sec. 200 of this chapter remain in effect during
11 the period of mediation.
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House Judiciary Committee
March 20, 1975

The meeting was called to order at 7:20 p.m. by Chairman Gardiner. All members were present except Mr. Fink and Mr. Specking.

HB 265/266 Community Legal Assistance

Mr. Brown moved out both bills with a do pass recommendation. Mr. Bradley objected and withdrew his objection. There being no further objection, HB 265 and HB 266 were passed out of committee do pass.

HCR 39 Criminal Code Revision

Mr. Parr moved the bill out do pass. The group objected. Mr. Brown moved that on page 1, line 29, law enforcement officers and members of the lay public be included and "and the like" deleted. There was an objection and Mr. Brown withdrew his amendment.

Mr. Gardiner moved that on page 1, line 25, insert "broadly" after should be and on line 27 put a period after laws and delete the rest of the sentence to line 29 "and be it" The amendment passed.

Mr. Parr moved that on page 2, line 3 "the work of the commission" should be deleted and replaced with "the commission's work." The amendment passed.

Mr. Brown moved HCR 39 am out do pass. There being no objection, the bill was passed out of committee.

HB 237 Divorce/mediation

Mr. Brown moved the following amendments:
page 1, line 14, 15 delete all and insert "Sec. 09.5.115. MEDIATION. (a) At any time within 30 days after a complaint or cross complaint is filed, a party to the action may submit a request to the court"
page 1, line 20, delete all and insert: "the court may at any time order the parties to submit to mediation if there is"
page 1, line 28, delete all and insert: "of any minor children of the marriage, shall attend. Counsel for the parties may attend."
page 2, line 5, delete all of sec (e).
page 1, line 23, delete "himself"
Mr. Brown's amendments passed.
Mr. Brown moved CS HB 237 out of committee do pass. There being no objection, the bill was passed out of committee.

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House Judiciary Committee
March 6, 1975

The meeting was called to order at 11:30 a.m. by Chairman Gardiner. All members were present except Reps. Brown and Parr.

CS CS SB 28 Marriage

The committee reviewed the proposed Judiciary CS. Mr. Fink moved and asked unanimous consent that H CS for CS for SB 28 pass out of committee with a do pass recommendation. There being no objections, it was so ordered.

HB 237/233 Divorce

Speaker Bradner, sponsor of the legislation testified that HB 237 was intended to provide for an informal forum outside the Rules of Court Procedure. He suggested the following amendments:

- p 1, line 14 - within 30 days after
- p 1, line 23 - delete "himself"
- p 2 - delete section (e)
- add a section stating that counsel may be present

He explained the purposes of HB 238 as follows: if custody is at issue, the court will be notified and will consider the possibility of appointing a lawyer for the child. It specifies the method of payment for the lawyer. Mr. Fink raised the question of why legal services would have a special exception.

The meeting adjourned at 12:10 p.m. and was reconvened at 1:20 p.m. All members were present except Mr. Parr and Mr. Brown.

Art Snowden testified that the Court system had no objections to the bills.

Don Clocksin of Alaska Legal Services stated that they supported HB 237 with the following amendments:

- p 1, line 14 - within 30 days after all necessary papers (cross complaints) had been filed
- p 1, line 20 - may, at any time,
- p 1, line 23 - delete "himself"
- p 2 - delete section (e)

Mr. Fink stated that if (e) were deleted, "himself" could be retained for those circumstances where only the judge would be qualified to do the mediation. There was no objection from anyone present.

Mr. Clocksin continued that he thought that the right to counsel in attendance at mediation was implied, but if there was a question to add language to that effect.

"Parties to the action and their counsel, if they choose . . ."

H. Carter

February 7, 1975

Rudy Johnson
3710 Alaska Ave.
Ketchikan, Ak. 99901

Dear Rudy,

Thank you for your letter of January 28 concerning the possibility of proposing legislation on the issue of domestic relations.

I have been in touch with Representative Mike Bradner regarding this subject and plan to work with him in drafting proposed legislation. I understand that Rep. Bradner has been collecting information and working with other persons interested in this type of legislation. I'm sure that whatever input you might wish to make would also be appreciated.

Thank you for your concern.

Sincerely,

Terry Gardiner
Representative

Rudy Johnson
3710 Alaska Ave.
Ketchikan, Alaska

January 28, 1975

Rep. Terry Gardiner
Alaska House of Representatives
Juneau, Alaska 99881

Dear Terry:

Enclosed is a letter I received from Senator Zeigler. It might be good if you got together with Mike Bradner and discussed this issue of domestic relations. I would certainly like to see meaningful legislation introduced and passed this year.

As of yet I haven't gotten a reply from the Department of Vital Statistics concerning divorce cases in the state. I would sure appreciate that information.

I will be more than happy to assist you or Mike to see this kind of legislation passed.

Thank you very much.

Sincerely yours,



Rudy Johnson

RJ/sm



JUNEAU, ALASKA

Alaska State Legislature
Senate

January 23, 1974

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Rudy:

Since arriving in Juneau, I have had occasion to chat with the Speaker of the House, Mike Bradner of Fairbanks, who is very much interested in our domestic relations statutes. He currently contemplates introducing legislation which would doubtless prove of help to the innocent victims of a divorce proceedings, the children.

I rather have a hunch you told me you have been accumulating material on this subject, and I think it might be of help to him. If his legislation gets through the House, whatever information you send Mr. Bradner will be transmitted to me, and your work may be of great value to the two of us, the legislature and the state.

Regards,

A handwritten signature in dark ink, appearing to read "Bob Ziegler".

Robert J. Ziegler, Sr.

RHZ/plz

cc - Representative Mike Bradner
House of Representatives
Pouch V
Juneau, Alaska 99811

March 10, 1975

*File with other
marriage/divorce letters*

Mr. Mike Bradner
House of Representatives
Pouch V
Juneau, Alaska

Dear Mr. Bradner:

Thank you very much for your letter of March 4th. The statistics and information you sent will be very useful to me.

I would like to commend you on what appears to me to be two excellent pieces of legislation. If these pass, I believe they will certainly contribute to more equity and fairness in divorce proceedings. As for the House Bill 237, all I can say is, this is excellent and long overdue. I am sure if this becomes law, many men and women will be thankful for it, if they ever find themselves in divorce proceedings. It should effectively take a lot of the profit out of divorce proceedings for some uncouth attorneys, as well as make the whole experience much more bearable and less painful for the adults and children involved.

I am very impressed with House Bill 238. It's hard to believe it's 1975, and we are just now seeing this kind of legislation being introduced. This bill is essential to the well being of the hundreds of children affected by divorce in our state every year.

I would like to share the following thoughts with you and make a couple of suggestions on this bill:

I had a telephone conversation with Dr. Paul Hansen, who is President of Fathers United of Baltimore, Maryland, last week. His organization's goals are to see that men are treated fairly and equally in divorce proceedings. They are also currently involved with their local legislatures trying to get legislation passed that will serve this purpose. They are trying to pursue a class action suit, that will seek to end biased and unfair decisions in our courts all over the United States. He was telling me that the biggest problem they are having with our judicial system is with the individual judges. Many of these judges are awarding children to mothers rather than fathers for no other reason than they are women. They have recently managed to require a judge to give a written decision to spouses involved in disputed child custody cases, stating his specific reasons for awarding custody as he has. They have had tremendous success with this and in the last year, 18 men in his organization were awarded custody of their minor children without having to prove the mother to be unfit, but merely showing the court their being awarded custody will be in the best interest of the children. This seems to substantiate Judge Shultz's remarks about this in our February meeting. He felt a clause in our statutes requiring a judge to give a written decision explaining his reasons for that decision would be very beneficial in guaranteeing all parties involved equality and fairness. After speaking to Dr. Hansen, I am convinced that a clause like this is essential to guarantee the children

of a divorce proceeding a decision that will truly be in their best interest. This would cause the part of our statutes to say, "In determining custody of minor children, the court shall be guided by what is in the best interest of the children, and that should be of paramount concern", to become reality rather than theoretical.

With these thoughts in mind, I would like to ask you to consider amending your original bill to include a paragraph that would simply read:

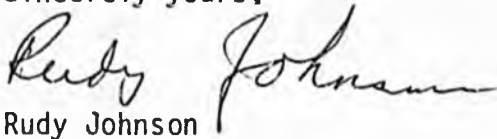
"In making a decision on the custody of minor children, in a disputed custody case, the court will state clearly and in detail its reasons for assigning custody to a particular spouse".

When I spoke to Judge Shultz, he told me he knew of judges that felt no child should have the right to state his desires in a court room, as they weren't old enough to know what they wanted, or what was in their best interest. I seriously doubt there are many judges that feel that way, but to protect the children from the few there are, I would like to suggest changing the word "may" to "will" in paragraph 1, on the courts guidelines that say, "By what appears to be for the best interest of the child and if the child is of sufficient age and intelligence to form a preference, the court 'May' consider that preference." Since this paragraph is only instructing the court to consider the child's feelings, this change would not have the effect of tying the courts hands, so to speak. I think it is necessary to allow the court to be flexible, but at the same time the courts should be obligated to consider a child's feelings since it is the children whose lives are being effected.

I would like to mention that a lot of organizations around the country that are involved in obtaining more just divorce laws are looking eagerly towards the out come of your legislation in the hope it will help their cause in their own state. What you are doing will benefit other states as well as our own, I am sure. Your efforts are most appreciated.

I am wondering if you feel some publicity would be helpful in getting your bills through the House and Senate? Maybe letters to the editor in a few papers etc. If you think you will need more support for these bills, I would be glad to work on that.


Sincerely yours,



Rudy Johnson

cc: Rep. Terry Gardiner

Rudy Johnson
3710 Alaska Ave.
Ketchikan, Alaska 99901



THE FOLLOWING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.

45-465-3430

Maria Iverson

Call Support instead of alimony

allow negotiable up to 3 years

alimony doesn't exist in other countries

provision that says you can't go back in
divorce for alimony - this forces lawyers to
go for alimony at divorce time
Man bargains away on divorce issue

Alimony doesn't survive death

Alimony isn't received after re-marriage - common law
practice

the fact that people live together means
alimony continues

Florida - court rulings and statutes

have provision on alimony time restriction,
limit alimony to women who don't have skill
or education by past experience to support themselves

*File in
divorce*

DON YOUNG
CONGRESSMAN FOR ALL ALASKA

COMMITTEES:
INTERIOR AND INSULAR
AFFAIRS
MERCHANT MARINE AND
FISHERIES

Congress of the United States
House of Representatives
Washington, D.C. 20515

WASHINGTON OFFICE
1210 LONGWORTH BUILDING
TELEPHONE 202/225-5765

DISTRICT OFFICES
115 U.S. FEDERAL BUILDING
ANCHORAGE, ALASKA 99501
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September 10, 1974

Ms. Maria Iverson
RR 4, Box 4430
Juneau, Alaska 99801

Dear Ms. Iverson:

Thank you for your letter and enclosed declaration.

Laws that govern domestic relations are always a matter of the State Legislature, not one of Federal Government. It is not within the power of the Federal Government, nor should it be, to dictate divorce and settlement laws to the states. More and more power has been taken away from the states and it seems to me that the country would be a stronger one if it were more self-governed in terms of state authority.

I am very sympathetic to your declaration and agree that in most states, divorce laws are out-dated and inequitable in terms of settlement costs, property division, etc. You do have to keep in mind that at the times these laws were made, they were done so in order to protect women who had no means of supporting themselves and their children. Fortunately, our society has changed and women's rights have provided them with the ability and right to equal employment and a state of self-sufficiency. Unfortunately, the laws have not changed that much and it is up to us all to see that they do.

I wish you much luck in your endeavors, Ms. Iverson and hope that we will see changes in our own state. You should write to your State legislators, and, since you live in Juneau, it would be much easier to visit them and actively support your case.

Sincerely,

Don Young
DON YOUNG

Congressman for all Alaska

DY:dvc

1 IN THE HOUSE

BY: ~~BRADNER~~

2 HOUSE BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINETH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to marriage and divorce
7 status."

8 * Section 1. AS 25.15.070. Property acquired during coverture
9 by her own labor is repealed and re-enacted to read:

10 Sec. 25.15.070 PROPERTY ACQUIRED DURING COVERTURE BY
11 HER: OR HIS OWN LABOR. No real or personal property ac-
12 quired by a married man or woman during coverture by his or
13 her own labor is liable for the spouses debts incurred
14 separately, on contracts, or liabilities of spouse [of her
15 husband], but in all respects is subject to the same exemptions
16 and liabilities as property owned at the time of his or her
17 marriage or afterwards acquired by gift, devise, or inheritance.

18 * Section 2. AS 09.55.170. Separate domicile or residence, is
19 repealed and re-enacted to read:

20 Sec. 09.55.170 Separate domicile or residence. In
21 actions for divorce, husbands or wives may acquire a separate
22 residence or domicile from that of the other party without
23 reference among other factors to misconduct or consent of
24 the other party.

25 * Section 3. AS 09.55.200⁽¹⁾ Orders during action is repealed.

26 * Section 4. AS 09.55.200 (3) is repealed and re-enacted to read

27 Sec. 09.55.200 (3) for the freedom of the husband or wife
28 as the case may be, from the control of the other party during
29 the pendency of the action.

30 * Section 5. AS 09.55.210 (3) is repealed and re-enacted to
31 read:

32 Sec. 09.55.210 (3) for the recovery by one party from the
other of an amount of money for maintenance, in gross or in-
installments, as may be just and necessary without regard to

1 which of the parties is in fault, is to be construed for
2 children only.

3 Section 6. AS 09.55.210 (5) to be repealed and re-enacted to
4 read:

5 Sec. 09.55.210 (5) for the appointment of one or more trustees
6 to collect, receive, expend, manage, or invest, in the manner
7 the court directs, any sum of money adjudged for the maintenance
8 [OF WIFE], the nurture and education of minor children committed
9 to ^{either} either party's care and custody;

10 Section 7. AS 09.55.210 (6) repealed and re-enacted to read:

11 Sec. 09.55.210 (6) for the division between the parties of
12 their joint property or separate, acquired only during coverture,
13 in the manner as may be reasonable, and without regard to which
14 of the parties is in fault, however the court, in making the
15 division may invade the property of either spouse acquired be-
16 fore marriage when the balancing of the equities between the
17 parties requires it, and to accomplish this end the judgment may
18 require that one or both of the parties assign, deliver, or
19 convey any of his or her real or personal property to the other
20 party, the wife is not entitled to all properties the husband
21 owned, it shall be not more than half of the property acquired
22 during coverture to be considered reasonable.

23 Section 8. AS 11.35.010 Desertion or nonsupport of wife or child.
24 is repealed and re-enacted to read:

25 Sec. 11.35.010 A person who is the parent or guardian of
26 a child under the age of 16 years dependent upon him or her
27 for care, education or support, and who deserts or abandons the
28 child, or ward, or wilfully fails without lawful excuse, to
29 furnish necessary food, care, clothing, shelter, medical atten-
30 dance, education or support for the child or ward, guilty of
31 a misdemeanor and upon conviction is punishable by a fine of
32 not more than \$500.00 or by imprisonment in a jail for not more

Cont'd

1 than 12 months, or by both. However, before the trial, with
2 the consent of the defendant, or after conviction, instead
3 of imposing the penalties prescribed, or in addition to those
4 penalties, the court, having regard to the circumstances and
5 the financial ability and earning capacity of the defendant,
6 may make an order, subject to change by it from time to time
7 as circumstances require, directing the defendant to pay a
8 definite sum or a certain weekly sum during such time as the
9 court may direct, into the court for the benefit of the guardian
10 or custodian or place him or her on probation during such time
11 as the court directs, upon his or her entering into an under-
12 taking with one or more sufficient sureties who shall qualify
13 as bail upon arrest in a sum the court directs. The under-
14 taking shall be conditioned so that the defendant shall per-
15 sonally appear before the court whenever ordered to do so and
16 shall at all times comply with the terms of the order or any
17 modification which the court may make, and shall provide that,
18 should the conditions of the bond be broken, the defendant
19 and his or her sureties consent to entry of judgment against
20 them by the court in the amount specified in the undertaking.
21 Section 9. AS 11.35.040 Application of money recovered.

22 is repealed and re-enacted to read:

23 Sec. 11.35.040. In case of a judgment against the defendant
24 and his or her sureties as set out in § 20 of this chapter
25 and its enforcement by execution, the sum recovered may be
26 paid, in whole or in part, and at the times and in the amounts
27 the court orders, to the guardian or custodian of the minor child
28 for support, or whoever receives custody of the child or children,
29 this is to be construed to mean for children only.

30 Section 10. AS 11.35.070. Evidence of abandonment or non-
31 support, is repealed and re-enacted to read:

32 Sec. 11.35.070. Proof of the abandonment or nonsupport of

Cont'd

1 [A WIFE] or the desertion of a child or ward, or the omission
2 to furnish necessary food, clothing, shelter or medical att-
3 endance for the child or ward is prima facie evidence that
4 the abandonment or nonsupport or omission to furnish necessary
5 food, clothing, shelter or medical attendance is wilful. No
6 other evidence is required to prove marriage or parenthood
7 than is required in a civil case.

8 Section 11. AS 11.35.090. is repealed and re-enacted to read.

9 Sec. 11.35.090. Effect of divorce [AND ALIMONY] and child
10 support. Section 10 of this chapter is applicable to the
11 maintenance and support of a child whether the parents of the
12 child are married or divorced and regardless of a decree made
13 in a divorce action regarding [ALIMONY OR THE SUPPORT OF THE
14 WIFE] support of the child or children.

15 Section 12. AS. 11.35.--- Effective date of the enactment
16 of these amendments are to be as follows:

17 Any decree issued within the State of Alaska, whether
18 date of issue is in the future or was prior to the passing of
19 this amendment, will have the right to modification as specified
20 therein, and or any resident of this State, will have the right
21 to ask for modification of his or her decree, regardless of where
22 the decree was issued.

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'OPPRESSED' MAN SEEKS ALIMONY LIB

BY RICHARD DOYLE

"I don't care if you prove I'm a whore, I'll still get the kids," my wife taunted, back in 1956.

"We'll see about that," I retorted, giving her a black eye. I'd just returned from overseas duty in the Korean War, defending an allegedly constitutional form of government, to find her shackled up with a guy she'd picked up at the North St. Paul VFW Club.

As it turned out, the black eye was the only personal satisfaction I ever got. My wife was able to make good her promise in spades. She not only won custody of our three children, but succeeded in bringing down on me the entire weight of the righteous, mother-loving legal establishment in the process.

The ensuing litigation was bitter, lengthy and financially devastating. The complaint summarizes how this bounder was jailed for allegedly not supporting a son (who was living with me during the entire period of supposed non-support), how I was driven from a lucrative job and how my children were destroyed by the alley-cat morals of their mother.

As a result of the experiences I had while going through my own divorce, I became cognizant of the viciously anti-male prejudice of the courts, from the lowest municipal bench to the U.S. Supreme Court. The effects of this on my children and those of other men, hundreds of thousands of them, not only destroyed any illusions I had about justice in our courts, but also catapulted me into a lifelong dedication to right

these wrongs. I'd been an air traffic control specialist for fourteen years, with an option to become a commercial pilot, but I sacrificed both to embark on my obsessive mission. In 1971, some kindred spirits and I founded a counseling service in Chicago for divorced and separated men.

In a little over a year, our organization compiled voluminous files on over 1,000 men who'd been destroyed and pauperized by divorce. Incorporated into a forthcoming book, which I wrote, they provide examples of incredible, but proven, horror stories.

ENDLESS ATROCITIES

We've seen case after case of children routinely awarded to unfit mothers and of alimony given to women whose assets were already considerably greater than those of their husbands. In one incident, a \$9,000,000 award was made to a woman already worth \$14,000,000. In another case, the alimony amounted to 105% of the man's income. One judge demanded \$1,000 a month in alimony from a man who earned \$15,000 a year.

The atrocities are endless. A forty-six day marriage cost one man \$167,750 while, in another case, an \$11,550,000 settlement was made for "verbal abuse."

Alimony is not an ordinary debt. Marriage is the only civil contract wherein unpaid debts, despite legal prohibition, result in jail. The rationalization through which the courts can order this is tortuous enough to make "Catch-22" seem

*Maria Johnson
Make a copy of 1st part of article
for me - Bill*

logical in comparison. One man spent five years in jail for incurred debts, and another was sentenced for life. The New York debtor's prison, a disgrace for the world to see, is popularly referred to as "alimony jail."

Because the word alimony is falling into disfavor, the courts are now calling the husband's payments "child support," even though the amounts demanded are two to four times the realistic cost of each child. Child support is actually worse than alimony, because child support does not terminate upon the wife's remarriage. And it's not unusual for a man to be jailed for inability to meet child support payments.

The varieties of injustice perpetrated during divorce proceedings are endless. Our Chicago counseling service found many cases of men who were evicted from their inherited or personally constructed homes and torn from their children on the mere whim of a woman, without opportunity to oppose the action in court. There is no way in which this kind of judicial custom and practice can be construed as Due Process or even-handed law.

As we compiled facts, it became clear that, while women are admittedly discriminated against in some areas, so are men. Male oppression is not restricted to domestic relations, but runs the gamut from eligibility for retirement benefits to liability for criminal offenses.

Male criminals are shafted, from conditions of arrest to conditions of confinement. For example, if a man looks into a home while a woman is undressing, he's arrested for window peeping. Reverse the situation, with the woman looking into a man's home, and the man will still be arrested, this time for indecent exposure. In Texas, a man and woman went swimming in the nude. The man was arrested, the woman was not. A woman's prison is sometimes like a campus, complete with T.V.-equipped, furnished cottages. Men's prisons are often like dungeons, with the prisoners caged like animals behind steel and concrete.

As a result of our investigations, our cause widened and deepened into a true men's liberation movement. Men don't need to be liberated *from being men*, but liberated *to be men*.

Our Chicago men's rights movement became strong. However, other cities were still behind the times in the important area of men's liberation. For this reason, still devoting all our time and energy to the crusade, we incorporated the Men's Rights Association in St. Paul, Minnesota in 1973. We did so by begging and borrowing funds. Since then, sometimes we draw salaries, sometimes we can't. The Association now boasts 1,400 members.

The stated purpose of the Men's Rights Association is to obtain equal rights for men under all areas of the law. We lobby for sensible legislation, educate the judiciary and the public and counsel individual members in legal matters. We've filed complaints with the Human Rights Commission and are planning class-action lawsuits on behalf of men.

Men's Rights Association functions as a collective bargaining agency for its members. We're able to divert money from divorce racketeer lawyers to attorneys around the country who will work diligently for us for reasonable fees. This saves our members an average of thousands of dollars each. Equally important, it often saves the men's rights to their children.

ONLY ONE WEAPON

A woman has many weapons in a divorce battle: her looks, her favors, her tears, a carte-blanc access to government-subsidized lawyers and the prejudicial orientation of the establishment. Conversely, a man has only one weapon, his money. He must know how or how not to use it and only competent counseling can provide this knowledge. The \$40 Men's Rights Association membership donation may be the best investment a potential victim can make.

Men's Rights Association already has created powerful enemies. Divorce has

THE PRECEDING PAGES WERE TREATED AS
A UNIT IN THE ORIGINAL FILE.



file with divorce info

Superior Court

State of Alaska

FIRST JUDICIAL DISTRICT
STATE CAPITOL BUILDING

POUCH U

JUNEAU, ALASKA

99801

THOMAS B. STEWART
PRESIDING JUDGE

March 24, 1975

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Mr. Johnson:

This is in response to your letter of March 2, 1975, concerning legislation on divorce, alimony, and child custody. I regret the unavoidable delay that has occurred in making response to your letter.

With respect to your question no. 1, I feel that it is possible to obtain a fair and equitable settlement for both parties involved as our present statutes read. Those statutes must be read together with the decisions of our Supreme Court interpreting them, and one feature to note is that fault is not to be considered in the division of property interest between the parties. The standard for determining child custody is the best interest of the child, and the case of King v. King which you cited, reported at 477 P.2d 356, stands for that proposition and not for a so-called "tender years doctrine". In fact, in the King case the decision which I made awarding the custody to the father was affirmed by the Supreme Court.

With regard to your question no. 2 on men and women being treated with equality in child custody matters, I am inclined to think that this is so. The King case cited above would confirm this view.

With respect to your question no. 3 on giving weight to the opinion of children as to where they would rather live, I can't comment about the decisions of other judges since I am not aware of them. In my own experience, the child's opinion is given substantial weight, of course depending upon the age and capacity of the child to form an intelligent opinion. Again, the ultimate decision is based on a standard of what is in the best interest of the child. Any judge is always entitled to take into consideration the child's own desires in reaching an ultimate conclusion.

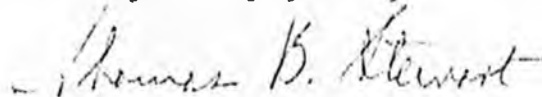
With respect to your item no. 4 on the stringency of the grounds for divorce, I see no particular need for change in this respect. Our "incompatibility of temperament" ground amounts to a no-fault basis for divorce, and I am inclined to the view that this is appropriate in the modern society.

With respect to the alimony laws, I find nothing unjust about them when construed together with court decisions. Recent decisions make it clear that alimony be awarded from a wife to a husband if the relative earning capacity of the parties and their needs would so indicate. That rather seldom happens, but it's one of the possibilities under our existing law where the facts might justify it.

As indicated above, I have already commented on the guidelines generally followed in determining the custody of minor children, i.e., what is in the best interest of the child. In this connection, you should be aware of the recent publication entitled "Beyond the Best Interest of the Child" by Goldstein, Freud and Solnit. This volume provides some interesting new insights and suggests a standard involving the concept of the least detrimental alternative to the child. In a sense this is consistent with the "best interest" concept although it involves some aspects that depart from more traditional views of the latter standard. I commend the volume to you for your reading in the course of the studies you are making.

Please do not hesitate to write further if you have additional questions of me on this subject.

Very truly yours,



Thomas B. Stewart
Presiding Judge

TBS:pw



Superior Court

State of Alaska

FIRST JUDICIAL DISTRICT

STATE CAPITOL BUILDING

POUCH U

JUNEAU, ALASKA

99801

CHAMBERS OF
VICTOR D. CARLSON, JUDGE

March 18, 1975

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Re: Statutes concerning divorce,
alimony, and child custody

Dear Mr. Johnson:

This is in reply to your letter of March 2, 1975. In contested divorce cases both parties are able to receive fair and equitable settlements within the perimeters of emotions, assets, and the parties and court's ability to foresee what problems may arise in the future. The statutes are not a hindrance to fair and equitable settlements. I believe men and women are being treated, as much as possible, equally with regard to child custody questions. Our society generally recognizes that a mother has greater ability to raise a young child than does a father.

The question concerning a child's right to decide with which parent he will reside is difficult to answer, since each judge has his own ideas of what is best for a youngster in a particular situation. Personally, I listen to youngsters of less than 14 years of age and take into account their feelings when awarding custody, however, it cannot always be the youngsters choice, and sometimes just by giving the youngster an opportunity to voice his opinion is putting undue pressure on the youngster.

The grounds for divorce should be amended to include

Mr. Rudy Johnson
March 18, 1975

the fact that a marriage has ceased to exist; that is, that the relationship between the parties is not a viable marital relationship. Presently, our statutes provide that incompatibility of temperament is a grounds for divorce and this reason should be retained and my suggestion would be an addition which would not require proof that the parties cannot get along, but merely the fact that they are not getting along and working together for common goals.

The present alimony laws are flexible and give the judge the necessary discretion to provide for the support of the needy party, if such an order appears justified under all of the circumstances.

You asked for further explanation concerning the writer's feelings about the treatment of men and women in child custody cases. I believe the Alaska Supreme Court has taken an enlightened approach concerning the custody of children by emphasizing the best interest of the child. I suggest that you read King v King, 477 P.2nd 356 (Alaska 1970). The question is not the unfitness of a particular parent, but what is the best interest of the child.

My record of being reversed on child custody questions is poor, however, the criteria I use are those enunciated by the Alaska Supreme Court, which include keeping siblings together, placing children in a two adult home in order that both parental figures can be observed and the child can model his life in relation to both a man and a women, evaluation of each parent's abilities to exercise parental responsibilities as evidenced by how well they have exhibited parental responsibilities in the past, and an overall analysis of which parent's home will provide the better environment for the youngster to grow into a viable adult.

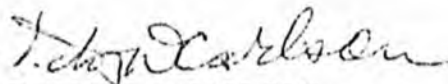
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Mr. Rudy Johnson
March 18, 1975

have exercised historically, is better for our society. The transition period is difficult, especially for males. In summary I am saying that many bad marriages were continued because of the woman's feeling that she had no other alternative. I believe that marriages should not be continued under coercion and that it does not make for the best environment to raise a family when the marriage is maintained because there is no alternative.

Thank you for giving me this opportunity to comment and if I may be of further assistance please do not hesitate to ask.

Very truly yours,



VICTOR D. CARLSON
Superior Court Judge

VDC/jm



Superior Court

State of Alaska

March 17, 1975

CHAMBERS OF
JAMES A. HANSON, JUDGE

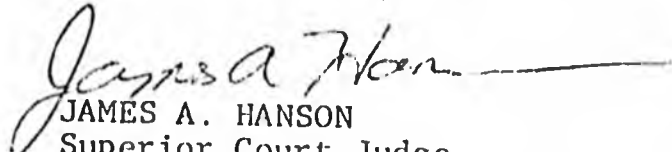
BOX 3891
KENAI, ALASKA
99511
941 FOURTH AVENUE
ANCHORAGE, ALASKA
99501

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Mr. Johnson;

In brief answer to your letter of March 2, 1975. I would answer questions 1,2,3 and 5 in the affirmative. With the power a judge now has to require marriage counseling in appropriate cases, no change in existing law appears necessary.

Very truly yours,


JAMES A. HANSON
Superior Court Judge

JAH/bls

Terry Gardiner
State Representative
Pouch V
Juneau, Alaska 99901

Dear Terry,

Enclosed is a letter to Mike Bradner and some other information I thought you may be interested in. I would appreciate your comments on there contents.

Thank you very much for the statistics you recently sent me. I believe these figures definitely reveal some very serious problems within the scope of domestic relations in our state. By this time next year, I hope to have enough information on this to be able to form some conclusions on how to best approach these problems and in fact find out just what the problems are.

I've certainly enjoyed working on this and have really appreciated your interest and help. We will be looking forward to seeing you home pretty soon.

Sincerely,

A handwritten signature in cursive script that reads "Rudy Johnson". The signature is written in dark ink and is positioned above the typed name and address.

Rudy Johnson
3710 Alaska Ave.
Ketchikan, Alaska
99901

Mike Bradner
Speaker of the House
House of Representatives
Pouch V
Juneau, Alaska 99801

Dear Mike:

First of all, let me say it was a real pleasure to meet you recently when you were in Ketchikan. Our conversation was very stimulating. It's nice to know there are people like yourself in seats of the government who are as concerned as you seem to be with issues as important as domestic relations, even though it's an unpopular and controversial subject. I admire your willingness to pursue it even though there doesn't seem to be any political advantage in doing so.

I've received several letters from Superior Court Judges, along with some more statistics from Terry Gardiner, that I would like to share with you. I also would like to offer my thoughts on the results of some studies I have been making.

When I first became interested in studying this issue, I was of the opinion that our state statutes were very biased and unjust concerning domestic relations. I felt our courts were not treating men fairly when they were involved in a domestic relation dispute. Since then I have found that we have equal rights amendments to our state constitution that guarantees men equality as well as women. This amendment has the same effect as changing the wording in our statutes to apply in all cases to both sexes. If you remember that was one of my suggestions, but according to these letters from some of our judges, and many court rulings recently made, this really isn't necessary. I am also inclined to believe that our courts are generally doing a good job in seeing that peoples rights and responsibilities are being protected in these kind of disputes. I believe several very serious problems will be eliminated if your two bills pass, mainly H.B. 237 and 238. However, I have talked to around 100 recently divorced men and women in the past eight months about these things and it seems there is very definitely a real problem in our state concerning divorce, alimony and child custody issues. It appears that most of these disputes are settled before the courts ever hear the case. I have been absolutely amazed to learn that most people who have been through a divorce are very ignorant as to what our state laws are concerning their own situation, even though they have paid dearly for professional legal advice. I am convinced that many men as well as women are agreeing to out of court settlements that are very unacceptable to them on the advice of their attorneys, believing they have no other alternative. If my suspicions are substantiated, I believe it is imperative this be put to a stop. Although I believe our courts are generally doing a good job, I suspect not all courts in the state are. I want very much to pursue my studies and find out just what the facts really are. I have every intention of doing this.

You mentioned while you were here that there was consideration of forming an AD HOC committee to investigate this issue. I believe that it is a very good idea and in fact very necessary when you consider the magnitude of the effect divorce has on the children involved as well as the adults and our society as a whole.

According to the statistics you and Terry have provided for me, at least where children are involved, women are filing for a divorce two and a half times as often as men. I believe it's very important to find out why this is so. I hope to find out how many of these cases involve child custody disputes, and find out what the results were of those disputes. I plan on checking the records in each judicial district and see how the individual judges are ruling. This should reveal any biased courts, should they exist. I have plans of talking with many more individuals about their personal experiences with divorce and to find if in fact they are or have been misled by their attorneys. I hope to find out if this is a common occurrence and find out which attorneys are causing the problems.

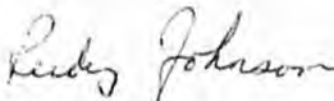
In the last 5 years, in Alaska there were 5728 divorces that involved children. This represents 11501 children. According to these figures, there will be over 2300 children involved in a broken home in our state this year and the figures are getting larger every year.

The Alaska Supreme Court has ruled that in custody disputes, the best interest of the children is to be the deciding factor in awarding custody, without regard to sex of the parent. I am very certain that the best interest of these many thousands of children is in fact not being protected because of problems that exist. Most of these problems are probably never made known to the courts because the case is so often settled before it ever gets to them.

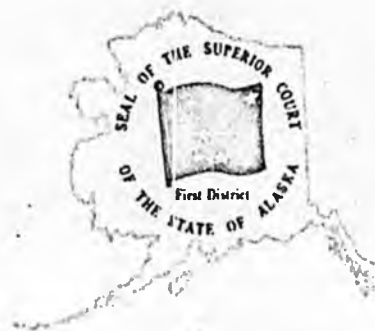
With these thoughts in mind, I believe it is very much in the interest of the state to pursue this and follow an investigation where ever it may lead, and take appropriate action to correct any problems that are found to exist. I am not sure if you said you were personally considering forming an AD HOC committee or not, but at any rate I hope that it gets done and I would like to participate myself if this happens. If there are any plans that you are aware of to do this, I would appreciate knowing about it and would like to help if I could. Although it would make an investigation much easier and quicker with a state wide effort, I plan on pursuing this myself, even if it is not organized. I would like to say, though, that its extremely difficult to get the information needed to come up with any factual results without some authority. For instance, I still haven't personally heard from the department of vital statistics in Juneau about information I've requested, other than they wrote to say they had no idea how long it would take to get the information. On the other hand, you and Terry got the same information long ago. So if there are no plans for a state wide AD HOC committee to be formed, I'm wondering if you could officially ask me to provide the information I've mentioned here along with anything else you may feel pertinent to revealing the facts of this matter. This would certainly help me to get results I am sure. If I had such a request in the form of a letter, it should provide the authority I think I am going to need to get some degree of cooperation with the different agencies I plan on contacting. These are my thoughts at this time, and I am certainly open to any suggestions you may have as to how this matter should best be approached.

With that, I'll be looking forward to hearing from you, and want to thank you for all the time you have given me. Could you please let me know what the status of HB 237 and HB 238 is.

Sincerely,



Rudy Johnson
3710 Alaska Ave.
Ketchikan, Alaska



Superior Court

State of Alaska

FIRST JUDICIAL DISTRICT
STATE CAPITOL BUILDING

FOUCH U

JUNEAU, ALASKA

99801

CHAMBERS OF
VICTOR D. CARLSON, JUDGE

March 18, 1975

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Re: Statutes concerning divorce,
alimony, and child custody

Dear Mr. Johnson:

This is in reply to your letter of March 2, 1975. In contested divorce cases both parties are able to receive fair and equitable settlements within the perimeters of emotions, assets, and the parties and court's ability to foresee what problems may arise in the future. The statutes are not a hindrance to fair and equitable settlements. I believe men and women are being treated, as much as possible, equally with regard to child custody questions. Our society generally recognizes that a mother has greater ability to raise a young child than does a father.

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The grounds for divorce should be amended to include

Mr. Rudy Johnson
March 18, 1975

the fact that a marriage has ceased to exist; that is, that the relationship between the parties is not a viable marital relationship. Presently, our statutes provide that incompatibility of temperament is a grounds for divorce and this reason should be retained and my suggestion would be an addition which would not require proof that the parties cannot get along, but merely the fact that they are not getting along and working together for common goals.

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You asked for further explanation concerning the writer's feelings about the treatment of men and women in child custody cases. I believe the Alaska Supreme Court has taken an enlightened approach concerning the custody of children by emphasizing the best interest of the child. I suggest that you read King v King, 477 P.2d 356 (Alaska 1970). The question is not the unfitness of a particular parent, but what is the best interest of the child.

My record of being reversed on child custody questions is poor, however, the criteria I use are those enunciated by the Alaska Supreme Court, which include keeping siblings together, placing children in a two adult home in order that both parental figures can be observed and the child can model his life in relation to both a man and a women, evaluation of each parent's abilities to exercise parental responsibilities as evidenced by how well they have exhibited parental responsibilities in the past, and an overall analysis of which parent's home will provide the better environment for the youngster to grow into a viable adult.

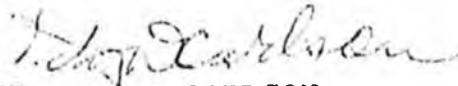
You comment that many women would not seek a divorce if they felt they might lose their children. Stated as I have done that may well be true, however, I think that the main reason why many women are seeking divorces today, who would not have done so in the past, was the lack of opportunity for earning a living and maintaining themselves as individual economic units. In the past, women did not give up the opportunity for divorce because of family reasons in whole, but simply were in no position to support a family on their own. I believe that the transition from viewing women as dependent individuals to viewing a women as a people fully competent in their own right to exercise all personal rights, which men have

Mr. Rudy Johnson
March 18, 1975

have exercised historically, is better for our society. The transition period is difficult, especially for males. In summary I am saying that many bad marriages were continued because of the woman's feeling that she had no other alternative. I believe that marriages should not be continued under coercion and that it does not make for the best environment to raise a family when the marriage is maintained because there is no alternative.

Thank you for giving me this opportunity to comment and if I may be of further assistance please do not hesitate to ask.

Very truly yours,



VICTOR D. CARLSON
Superior Court Judge

VDC/jm



Superior Court

State of Alaska

March 17, 1975

CHAMBERS OF
JAMES A. HANSON, JUDGE

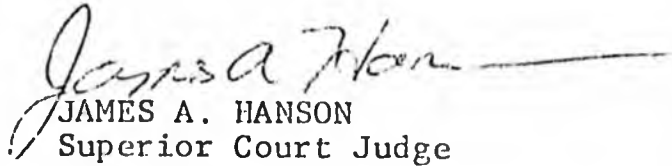
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Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Mr. Johnson;

In brief answer to your letter of March 2, 1975. I would answer questions 1,2,3 and 5 in the affirmative. With the power a judge now has to require marriage counseling in appropriate cases, no change in existing law appears necessary.

Very truly yours,


JAMES A. HANSON
Superior Court Judge

JAH/bls



Superior Court

State of Alaska

THIRD JUDICIAL DISTRICT

303 K STREET
ANCHORAGE, ALASKA
99501

CHAMBERS OF
RALPH E. MOODY, JUDGE

March 21, 1975

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Mr. Johnson:

In reply to your questions of March 2, 1975, regarding divorce, I believe existing state laws provide an adequate framework within which the courts can equitably adjudicate the rights of all the parties concerned.

The following are your questions with my answers thereafter.

(1) In contested divorce cases do you feel it is possible to obtain a fair and equitable settlement for both parties involved as our present statutes read?

Yes.

(2) Do you feel men and women are being treated equally in child custody cases?

The law so provides. I have no basis for believing the law is not followed.

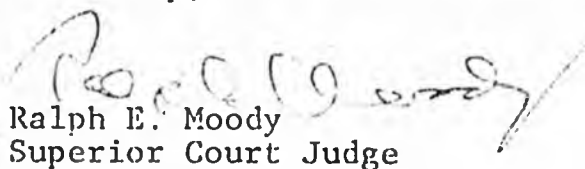
(3) Do you feel children are given enough authority in deciding which parent they would rather live with?

Yes.

(4) Do you feel grounds for a divorce should be made more stringent or more relaxed?

Present laws appear to be satisfactory.

Sincerely,

A handwritten signature in dark ink, appearing to read "Ralph E. Moody", is written over the typed name.

Ralph E. Moody
Superior Court Judge

REM: dpd



Supreme Court

State of Alaska

941 Fourth Avenue
Anchorage, Alaska 99501

April 14, 1975

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, AK 99901

Dear Mr. Johnson:

This is in reply to your letter of March 2, 1975, concerning the handling of divorce cases in Alaska particularly those involving custody of minor children. At the outset I would like to apologize for the delay in my reply. This is attributable to the extreme press of business of late as well as a recent two-week illness which kept me out of the office.

In your letter you asked five questions, I will try to answer those questions in order and as requested by you I will attempt to expound particularly on question number 2. Those questions and my reply to them are as follows:

1. In contested divorce cases do you feel it is possible to obtain a fair and equitable settlement for both parties involved as our present statutes read?

Answer: In my opinion a fair and equitable decision as to both parties is not only possible but is generally the case.

2. Do you feel men and women are being treated equally in child custody cases?

Answer: Generally, yes. I would disagree with those who say that it is "almost impossible for a man to gain custody of his children in Alaska, unless he can prove his wife is unfit". I have on a number of occasions awarded

custody to the husband despite the fact that the mother was found to also be a fit parent. The decision in a particular case of course turns upon the facts of that case but in all instances the primary concern of the court should be the best interest of the children. What their interest requires depends upon the surrounding circumstances with particular regard to the age of the children, the feelings of the children toward one parent or another, the ability of one parent or the other to provide a suitable home, and very often the work requirements of the two parents. In those cases involving children of tender years, it is probably true that the wife usually prevails. In my experience, however, that result is by no means automatic. It is, rather, a recognition that generally speaking a mother is probably better able to care for an infant as more often than not she is able to spend more time with the child fulfilling the needs that he has.

3. Do you feel children are given enough authority in deciding which parent they would rather live with?

Answer: Generally, yes. There may of course be exceptions, however it is very difficult to generalize when talking about a subject as complex as the custody of children.

4. Do you feel that the grounds for a divorce should be more stringent or more relaxed?

Answer: My personal belief is that the present state of affairs is perhaps about as it should be. Having practiced in a jurisdiction where the requirements were far more stringent than they are in Alaska, I eventually came to the conclusion that that strong requirement had a tendency simply to encourage fraud and perjury on the part of the litigants and did very little to hold a marriage together. The stronger laws also seem to have a disadvantage where minor children were involved in that it simply added fuel to an already hot fire and in many cases those suffering most were the children involved in the dispute between the parents.

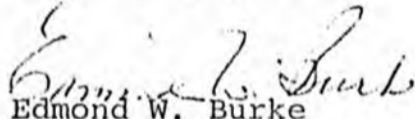
5. Do you feel our present alimony laws are just?

Answer: Yes. Again, there may be abuses and injustice in certain cases. However, I feel that those represent misapplications of the law rather than fault with the law itself.

You have also expressed an interest in knowing what guidelines I have followed in determining custody of minor children in divorce cases. The fundamental rule that I have tried to follow is to do in all cases what in my belief was in the best interest of the children. As between parent and child, the feelings and interest of the parents must yield. The various factors that I generally tried to consider are: the wishes of the parents; the wishes of the child; the apparent strength of the bond between the respective parents and the child; the ability of the respective parents to fulfill both the material and emotional needs of the child; and, in many cases, whether or not the parent's desire for custody was based upon his or her love for the child rather than from a mere desire to hurt the other parent.

In summary, I would have to say that I could not agree more fully with your observation that divorce is very tragic and particularly so when it involves minor children. I hope that these few comments can be of some assistance to you.

Very truly yours,



Edmond W. Burke
Supreme Court Justice



Superior Court

State of Alaska

FIRST JUDICIAL DISTRICT
STATE CAPITOL BUILDING
POUCH U
JUNEAU, ALASKA

99801

THOMAS B. STEWART
PRESIDING JUDGE

March 24, 1975

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Mr. Johnson:

This is in response to your letter of March 2, 1975, concerning legislation on divorce, alimony, and child custody. I regret the unavoidable delay that has occurred in making response to your letter.

With respect to your question no. 1, I feel that it is possible to obtain a fair and equitable settlement for both parties involved as our present statutes read. Those statutes must be read together with the decisions of our Supreme Court interpreting them, and one feature to note is that fault is not to be considered in the division of property interest between the parties. The standard for determining child custody is the best interest of the child, and the case of King v. King which you cited, reported at 477 P.2d 356, stands for that proposition and not for a so-called "tender years doctrine". In fact, in the King case the decision which I made awarding the custody to the father was affirmed by the Supreme Court.

With regard to your question no. 2 on men and women being treated with equality in child custody matters, I am inclined to think that this is so. The King case cited above would confirm this view.

Mr. Rudy Johnson

-2-

3/24/75

With respect to your question no. 3 on giving weight to the opinion of children as to where they would rather live, I can't comment about the decisions of other judges since I am not aware of them. In my own experience, the child's opinion is given substantial weight, of course depending upon the age and capacity of the child to form an intelligent opinion. Again, the ultimate decision is based on a standard of what is in the best interest of the child. Any judge is always entitled to take into consideration the child's own desires in reaching an ultimate conclusion.

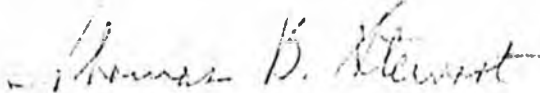
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With respect to the alimony laws, I find nothing unjust about them when construed together with court decisions. Recent decisions make it clear that alimony be awarded from a wife to a husband if the relative earning capacity of the parties and their needs would so indicate. That rather seldom happens, but it's one of the possibilities under our existing law where the facts might justify it.

As indicated above, I have already commented on the guidelines generally followed in determining the custody of minor children, i.e., what is in the best interest of the child. In this connection, you should be aware of the recent publication entitled "Beyond the Best Interest of the Child" by Goldstein, Freud and Solnit. This volume provides some interesting new insights and suggests a standard involving the concept of the least detrimental alternative to the child. In a sense this is consistent with the "best interest" concept although it involves some aspects that depart from more traditional views of the latter standard. I commend the volume to you for your reading in the course of the studies you are making.

Please do not hesitate to write further if you have additional questions of me on this subject.

Very truly yours,



Thomas B. Stewart
Presiding Judge

TBS:pw



Superior Court

State of Alaska

THIRD JUDICIAL DISTRICT

303 K STREET

ANCHORAGE, ALASKA

99501

March 24, 1975

CHAMBERS OF
JAMES K. SINGLETON, Jr., JUDGE

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Re: Child Custody and Support in
Alaska

Dear Mr. Johnson:

Thank you for your letter of March 2, 1975, in which you ask my opinion of existing law regarding marital property settlements, alimony, child support and custody. I believe two decisions I wrote in a case called Markley vs Markley, Superior Court No. 72-1910 fully set forth my opinion in these issues. I am enclosing them for your consideration.

I hope these will be of assistance to you.

Very truly yours,

James K. Singleton
JAMES K. SINGLETON
Superior Court Judge

JKS/jm

enclosures

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

AMY ANNE McMILLAN,)
)
 Plaintiff,)
)
 vs.)
)
 THOMAS ROBERT McMILLAN,)
)
 Defendant.)
)

No. 71-1876

ORDER DENYING MOTION FOR ATTORNEY'S FEES
AND COSTS, PROVIDING FOR CHILD SUPPORT THROUGH
COURT TRUSTEE, AND ADOPTING PARTY'S AGREEMENT
REGARDING VISITATION

This court entered its Findings of Fact and Conclusions of Law on August 3, 1973, in which I denied defendant's motion to amend the decree of divorce dated July 30, 1971, to reduce child support.

On August 17, 1973, plaintiff filed a motion asking for the following: (1) an award of \$3,610.18, or some other reasonable amount, as attorney's fees since she was the prevailing party; (2) that future child support, as well as any arrearage, be paid through the Court Trustee; (3) that this court fix visitation consistent with a letter agreement between the parties; (4) for an award of costs; and (5) for a court determination whether child support should continue during any period when when the children were visiting Mr. McMillan.

I will deal with these issues in order.

The Supreme Court in Houger v. Houger, 449 P.2d 766 (Alaska 1966) held that costs and attorney's fees in domestic relations matters were support, not costs; and, consequently, should be distributed between the parties on the basis of their support rights and duties rather than on the basis of the "prevailing party" test mandated by Civil Rules 54 and 82. Support is traditionally determined on the basis of the spouse's relative

need and ability to pay. ^{1/}

In the instant case, I have found Mr. McMillan's earning capacity to be \$3,000 per month, and Mrs. Springer, nee McMillan, to have an earning capacity of \$800 per month as a secretary or officer manager. In addition, Mrs. Springer is married to a man whom she testified has an earning capacity of approximately \$80,000 per year, or \$6,600 + per month (approximately twice Mr. McMillan's!). Further, Mr. McMillan is paying Mrs. Springer \$300 per month per child as support, and Mrs. Springer testified that this amount was not segregated for use by the children but was paid into a joint account into which Mr. Springer paid an equal amount and out of which all of the monthly expenses of the Springer household were paid. Thus, while Mr. McMillan has a greater earning capacity than Mrs. Springer, both are in the upper quadrant of earnings in Alaska, and Mr. McMillan is paying Mrs. Springer \$900 per month as child support.

Based upon these facts, I have exercised my discretion and determined not to award Mrs. Springer her attorney's fees.

1. I have dealt with similar issues in Bishop v. Bishop, Superior Court No. 70-2497 (2-6-73); and Markley v. Markley, Superior Court No. 72-1910 (8-8-73).

Generally I distribute costs and attorney's fees between the parties to a divorce in the following manner. First, I calculate each party's net earning capacity (generally on the basis of present earnings disclosed in their financial declarations, but present earnings are not conclusive any more than they are in workmen's compensation; cf. AS 23.30.210). Then I determine the total attorney's fees necessarily and reasonably incurred by both parties, i.e. the marital community in obtaining a divorce. (In determining necessity and reasonableness, I look to Canon 12 of The Canon of Ethics.) I then distribute the total fees between the parties on the basis of their respective net earning capacity, e.g. suppose husband's after-tax earnings (i.e. take-home pay) accurately reflects his net earning capacity and amounts to \$600 per month, while wife's after-tax earnings reflect her earning capacity and amounts to \$400 per month. Suppose, further, that each party has incurred \$600 of attorney's fees (the average for a contested divorce). The parties' total net earnings are \$1000 per month. The total fees are \$1200. Husband's share is 60% or \$720, and wife's share is 40% or \$480. Thus, husband would pay his \$600 fee plus contribute \$120 toward the wife's \$600 fee.

I did not follow this approach in those cases where special circumstances make such a procedure unfair. I believe this to be such a case.

I realize that Houger, supra, has been interpreted by some superior courts as standing for the proposition that AS 09.55.200(a) (1) requires an award of costs and attorney's fees to the wife in every domestic relations matter regardless of the economic position of the parties, the nature of the litigation, and its outcome. Cf. Miklautsch v. Dominick, 452 P.2d 438, 440, n. 9 (Alaska 1969). I believe that this interpretation of Houger, supra, is erroneous and that the error is clear from an examination of the Houger decision. The Supreme Court relied upon AS 09.55.200(a) (1) ^{2/} and 3 Nelson, Divorce and Annulment, sec. 29.03, Cost Items at 214 (1945), for the proposition that attorney's fees and costs in domestic relations matters were "support", not "costs". It should be noted, however, that a husband under Alaska law has no greater obligation to support his wife (AS 47.25.230) or child (AS 25.20.030) than his wife has to support him or her child (ibid.). The duty to support in Alaska is not a function of sex, but of need and ability to pay. Reference should also be made to AS 11.35.010 as amended which governs imposition of criminal penalties for failure to support without regard to sex.

There is nothing in AS 09.55.200 inconsistent with this approach. The language is permissive, not mandatory:

" . . . (M)ay provide by order (1) that the husband pay an amount of money to enable the wife to prosecute or defend the action." (emphasis supplied)

The statute applies to orders pendente lite and not to final orders; and the order involved is only to "enable the wife to prosecute or defend" presupposing that absent an award, the wife could not effectively participate in the action. It should be noted that the predecessors to AS 09.55.200 were enacted at a time when the average married woman was totally economically dependent upon her husband for support. It would be wrong to suppose that all of the economic disadvantages women as a sex suffer have been removed by the greater employment opportunities now available to women. But in this

2. AS 09.55.200 provides:

Orders during action. (a) During the pendency of the action, the court may provide by order

(1) That the husband pay an amount of money as may be necessary to enable the wife to prosecute or defend the action; . . .

age of women's liberation where in the state of Alaska almost every woman who has sought a divorce in my court has been steadily employed, or readily employable, a specific person's economic needs should be a question of fact, not presumption of law predicated on social and cultural considerations that in the present might properly be termed a matter of historical accident.

In saying this, I do not mean to substitute one inaccurate stereotype or generalization about married women involved in domestic litigation, i.e. an independent, self-supporting liberated woman, for another, i.e. the classic dependent, unskilled and uneducated household drudge. I realize that some married women are not trained for today's labor market, and that others who have the education and experience to prosper nevertheless have been out of the labor market and have been conditioned to lack confidence in themselves; and thus, will have greater difficulty getting back into that market. I also realize that women generally make less money than men. All I am saying is that each case should be decided on its own facts.

Any other view of this problem is, in my opinion, constitutionally suspect. ^{3/}
While the proposed Federal Equal Rights Amendment to the United States Constitution (H.R.J. Res. 208, 92nd Cong. 1st Sess. (1971) and S. J. Res. 92nd Cong. 1st Sess. (1971)) has been ratified in Alaska, it will not be effective until three-fourths of the United States have ratified it which has not occurred. Nevertheless, Alaska has independently adopted a constitutional amendment which precludes, in my opinion, a classification based solely on sex. (Cf. Alaska Constitution, art. 1, sec. 3, which prevents denial of a civil or political right on the basis of sex, with art. 1, sec. 1, which makes equal protection a civil right.) Read together, these provisions, in my opinion, preclude any statute from making a classification based solely on sex. Thus, a party's right to costs and attorney's fees must turn on that party's economic position, not his or her sex. See Brown, et al., The Equal Rights Amendment, 80 Yale L.J. 871, 944-46 (1971); and cf.

3. If the husband must pay the wife's fees in every case, many husbands will, because of poverty, be precluded from litigating child custody even though they could provide a better home for the children than their wives. This, too, is a constitutionally questionable procedure. Cf. Boddie v. Conn., 401 U.S. 371, 28 L. Ed.2d 113, 120 (1971).

Reed v. Reed, 404 U.S. 71, 75, 92 S. Ct. 251, 30 L. Ed.2d 225 (1972) and Alexander v. Louisiana, 405 U.S. 625, 633-44, 31 L. Ed.2d 536, 92 S. Ct. 1221 (1972) (concurring opinion, Douglas, J.).

The foregoing analysis also finds support in the legislative history of AS 09.55.200. Congress in legislating a code of laws for the then Territory of Alaska in 1900 drew primarily from the existing laws of Oregon. See City of Fairbanks v. Schaible, 375 P.2d 201, 207 (Alaska 1962). The laws governing divorce were included in the Alaska Code of Civil Procedure which was derived from the Oregon Code of Civil Procedure. AS 09.55.200 as originally enacted was Sec. 47(1) of Carter's Annotated Code which was based on Hill's Annotated Laws of Oregon, Sec. 500, enacted on October 11, 1862. The present Oregon statutes are Secs. 107.095 and 107.090, Oregon Revised Statutes. (For a discussion of the source of the Alaska Code, see Frederick E. Brown, The Sources of the Alaska and Oregon Codes, Part I: New York and Oregon, 2 U.C.L.A.-Alaska L. Rev. 15 (1972) and Part 2: The Codes in Alaska, 1867-1901, id. at 87 (1973).) The Oregon Code was in turn derived from Field's New York Code of Civil Procedure. See Brown, supra, and Harris, The History of the Oregon Code, Part I, 1 Ore. L. Rev. 129 (April 1922); Part 2, 1 Ore. L. Rev. 134, 210-15, esp. p. 215 (June 1922). Variations of the Field Code of Civil Procedure were adopted in all of the western states. See Albertsworth, Theory of Code Pleading, 10 Cal. L. Rev. 202, 205-06, esp. n. 8 at p. 205 (March 1922). Thus, all of the western states have code provisions comparable to AS 09.55.200 (though some have amended them to substitute a "party" for "wife" in their counterpart to AS 09.55.200(a)(1) (see, e.g. O.R.S. Sec. 107.095; cf. RCW 26.08.090; Cal. Civil Code, Sec. 4370 (former CC Sec. 137)).

The cases interpreting these statutes establish that in determining whether a wife is entitled to an award of attorney's fees, the court should consider three things: first, the financial resources of the parties; second, the property division allowed; and, third, the fault of the parties. Since fault is not a consideration in most Alaska incompatibility divorces, and was not a consideration here (the motion to modify was not

frivolous and I find that it was brought in good faith), ^{4/} I have based my decision exclusively on the financial resources of the parties as I understand them based, in part, on their testimony and the financial declaration submitted in response to the pretrial order previously issued.

Cases supporting this approach in interpreting the foregoing statutes are:

Turner v. Turner, 390 P.2d 360, 361 (Ore. 1964); Blake v. Blake, 31 P.2d 763, 772 (Ore. 1934); Jolley v. Jolley, 363 P.2d 1020 (Idaho 1961); Bell v. Bell, 328 P.2d 115 (Mont. 1958); Schmidt v. Schmidt, 321 P.2d 895 (Wash. 1958); Coons v. Coons, 491 P.2d 1333 (Wash. App. 1972); Smith v. Smith, 474 P.2d 619 (Colo. 1970).

For a consistent interpretation of California Civil Code, Sec. 137, at about the time the United States Congress was adopting the Oregon Code as the law of Alaska, see Stewart v. Stewart, 156 Cal. 651, 105 Pac. 955 (1909).

In making these observations, I do not mean to imply disagreement with the Supreme Court of Nevada's decision in Sargeant v. Sargeant, 495 P.2d 618 (Nev. 1972), that where one spouse has valuable property which is not income-producing and does not have the ability to earn income, he or she may nevertheless be entitled to an award of attorney's fees (or other support) against a spouse having a substantial income-earning capacity. A party should have his or her day in court without destroying his financial position by the sale of non-income-producing property. Here, however, Mrs. Springer has, in my opinion, an earning capacity sufficient to meet her needs and pay her attorney and, therefore, will not be deprived of her day in court by my denial of her motion for attorney's fees.

Plaintiff suggests that the foregoing is not relevant because the fees incurred here

4. See Malvo v. J.C. Penney Co., ___ P.2d ___ (Alaska July 13, 1973, Supreme Court Op. No. 901); and see Philips Mause, Winner Take All: A Re-examination of the Indemnity System, 55 Ia. L. Rev. 26 (1969).

were for the benefit of the children and, thus, should be characterized as child support.^{5/} She argues further that her contracting to pay them was in the nature of a furnishing of necessities^{6/} to the children for which she is entitled to reimbursement. Finally, she contends that this court by its findings of fact and conclusions of law determined that the children "needed" \$300 per month per child for their support and would, therefore, be injured if any part of that money was used to defray her legal expenses.

I believe plaintiff misconceives both the law and my prior decision. First, there are cases which characterize a divorced wife's resisting her former husband's efforts to have child support lowered as a trusteeship for the children in her custody^{7/} and the fees incurred by her as child support,^{8/} but I do not believe that this case can be so characterized.

Under Alaska law each parent, regardless of his or her sex, has an equal obligation to support his or her children (AS 25.20.030) and this obligation exists independent of any contractual allocation of the obligation inter se in a divorce decree (see AS 11.35.090).^{9/} Thus, the child to be supported and his creditors may sue a parent for support and the matter may not defend on the basis of the decree.^{10/} Consequently, I have con-

5. See In Re H., 468 P.2d 204 (Calif. 1970).

6. See Rees v. Archibald, 6 Utah 2d 264, 311 P.2d 788, 789-90 (1957).

7. See, e.g. Price v. Perking, 219 A.2d 557 (Md. 1966).

8. A wife's rights under AS 09.55.200 to have her attorney paid by her husband derives from her right to support, a right which terminates with divorce (absent an award of alimony). In post-divorce litigation, a wife's right to have her attorney paid depends upon her husband's child support obligation.

9. See State v. Langford, 176 Pac. 197 (Ore. 1918) (criminal liability exists without regard to divorce decree).

10. See Rees v. Archibald, supra, n. 6 (civil liability exists regardless of divorce decree).

sistently held ^{11/} that litigation pursuant to AS 09.55.200, et. seq., is not, in the ordinary case, intended primarily to determine the child's right to support, but rather given that right to support (which, of course, must be established), to distribute it, i.e. the support obligation between the parents. Thus, the primary issue in this case as I conceive it has never been what support was necessary for the children, but rather how should the support obligation be divided between Mrs. Springer and Mr. McMillan. Consequently, ^{12/} in this case Mrs. Springer was acting for her self and not her children.

Mrs. Springer has also misconceived this court's holding. Specifically, I found that the questions (1) what was a fair child support and (2) how should it be divided between the parties were so inextricably intertwined with the parties' property settlement agreement that they could not be separately considered; and that when considered together, I could not find on the basis of the evidence submitted that the entire agreement, including its determination of the amount of child support ^{13/} and its allocation of child support between

11. These concepts are developed in Paige v. Paige, Superior Court No. 71-1357, Decision filed May 16, 1972, reprinted in 1 Alaska Bar Brief, Issue No. 1, 1a - 3a (October 1972).

12. This conclusion might be different as a matter of fact if Mrs. Springer could not contribute to her children's support in which case all support would have to come from Mr. McMillan; but I found Mrs. Springer to have an \$800 per month earning capacity.

It would also be different as a matter of law if I followed the treatise written, i.e. Clark and Nelson, in holding that the wife's obligation for child support was secondary and regardless of her economic situation only arose if and to the extent that her husband could not support the children. But I specifically rejected this legal theory on constitutional grounds (see McMillan v. McMillan, No. 711876, Findings of Fact and Conclusions of Law dated August 3, 1973, pp. 67. Those cases which adopt the trusteeship theory which I have found can all be distinguished on the basis of the factual or legal conclusions rejected in this footnote (and in my findings and conclusions mentioned, supra).

13. While I relied on other evidence in making my decision and did not receive the attached chart (here denominated Exhibit A) until after the decision was made, it is useful to illustrate the precise issue which I resolved. The chart is one adopted by the Superior Court in Denver, Colorado (and also I am told Milwaukee, Wisconsin and through the Middle West) as a guide to the bar as to an appropriate award of child support. While the chart ends at net earnings per week of \$295-\$300, it is a simple problem in arithmetic series to carry it out since for a family of three children, the weekly child support (Column 4) increases at the rate of approximately \$2.50 for each \$5.00 increase in net weekly income (Column 1). i.e. Column 4 increases at 1/2 the rate that Column 1 increases. (Since Column 1 is a \$5.00 range, e.g. \$295-\$300, inclusive, while Column 4 is a single figure, e.g. \$122.00, this is not a completely accurate statement but is sufficiently accurate for

the parties was unconscionable either in the present or at the time of its execution.

Or, alternatively, that changed circumstances since the divorce justified modifying the child support provisions of the agreement while leaving the remainder of the agreement intact.

Proceeding to the other issues, the parties have no strong objection to future collection through the court trustee (though the trustee as a matter of policy will not attempt collection from non-residents).

13. (Cont'd)

illustrative purposes). We determine the necessary net income to justify a \$300 per month per child payment for three children as follows: if we assume 4.2 weeks in a month, then \$900 per month is \$214.25 per week. \$214.25 per week is \$91 more than \$123, the highest payment on the chart, and, therefore, would require a net income per week of \$478-\$482 (calculated as follows: $\$91 \times 2 = \$182 + \$296 = \478 ; $\$182 + \$300 = \$482$; $\$478 \text{ per week} \times 4.2 = \$2007.60 \text{ per month}$; $\$482 \text{ per week} \times 4.2 = \$2024.40 \text{ per month}$). Thus, while we know Mr. McMillan's gross earning capacity (found to be \$3000 per month), we don't know his net income per month (or net earning capacity); but it isn't inconceivable that a businessman who was sole owner of his own corporation could translate \$3000 of gross earnings per month into \$2000 per month net, i.e. after tax, earnings. The practical problem is that the chart assumes that only one parent (the non-custodial parent) can contribute money for child support while the custodial parent will contribute only services to the child(ren), but may work for his (her?) own subsistence. Where the custodial parent is able to earn more than his (her) own subsistence and contribute financially to the child's support, then the figures on the chart are reduced to reflect the custodial parent's fair contribution. Thus, the real issue in this case from the beginning has been how much Mrs. Springer should contribute financially to the children's support; or, more properly, how much should be deducted from Mr. McMillan's child support obligation (and assumed by Mr. Springer) to reflect what Mrs. Springer would have been able to contribute had she and Mr. Springer not jointly decided that she would not work.

14. The court held for purposes of determining unconscionability that it could not limit its consideration to child support but would have to consider the property settlement agreement as a whole, since any payment of child support in excess of what was a reasonable child support allocation might have been intended by the parties as in lieu of alimony or a payment in installments of Mrs. Springer's additional property rights. While alimony and child support have different tax consequences, installment payments on a property settlement agreement and child support have the same tax consequences. Determination of what a reasonable property settlement would be would require a comparison of what Mrs. Springer got with what Mr. McMillan got which would require a valuation of Mr. McMillan's business, an issue upon which there was no evidence save the "book value" of his stock, which I consider insufficient. (For reasons why one should not use book value to calculate the value of a close corporation, see Charles M. Williams & Pearson Hunt, *Some Concepts of Valuation*, pp. 177-203 (inclusive) in Helfert (ed.), *Techniques of Financial Analysis* (Homewood, Ill., Richard D. Irwin, Inc. 1963). Thus, my holding was essentially that Mr. McMillan had failed to sustain his burden of proof

The parties have amicably resolved their dispute regarding visitation.

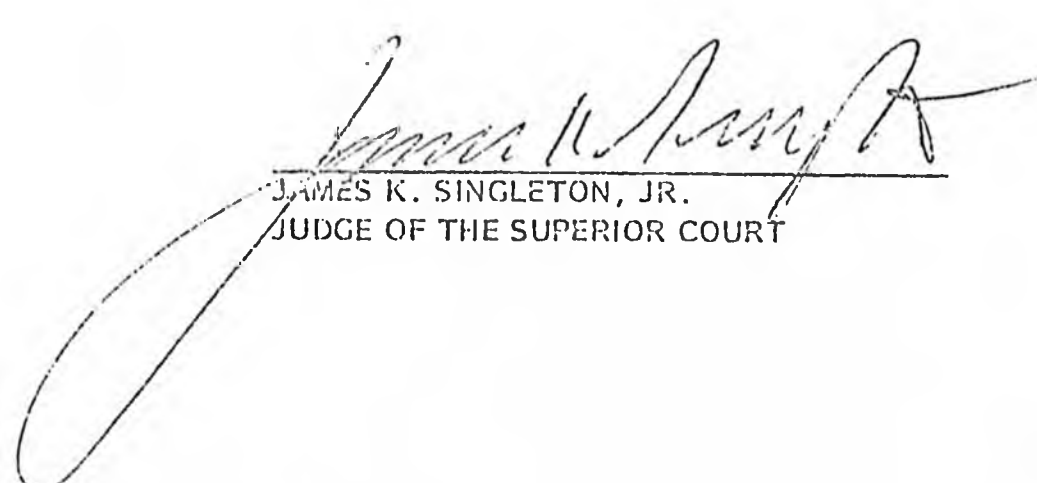
I have reviewed Mrs. Springer's cost bill and have concluded that she should pay her own costs for the same reason I feel she should pay her own attorney's fees.

Finally, considering all of the evidence and those factors peculiar to this case which lead me to deny the motion to modify, I am unable to determine that Mr. McMillan has proved facts which would justify this court in modifying the decree, and the parties' underlying agreement, to excuse child support during those periods when the children are with him; nor am I able to say (without understanding the basis for the property settlement agreement) that failure to excuse payments during visitation is unreasonable.

IT IS, THEREFORE, ORDERED:

1. Each party shall bear his or her own costs and attorney's fees.
2. Any money paid by Mr. McMillan into the registry of the court shall be released to Mr. Jensen for transmittal to Mrs. Springer.
3. The parties' letter agreement regarding visitation is approved.
4. Mr. Jensen shall obtain from the court trustee and prepare, serve and file the court's standard form "Minute Order of Support", all blanks properly filled in, providing that future support and any arrearage be paid through the court trustee.

DATED at Anchorage, Alaska, this 26 day of October, 1973.



JAMES K. SINGLETON, JR.
JUDGE OF THE SUPERIOR COURT

cc: Jensen
Eastaugh

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

March 2, 1975

Mr. Terry Gardner
State Representative
Pouch V
Juneau, Alaska 99801

Dear Terry:

I met with Superior Court Judge Thomas Schultz Tuesday, February 18, 1975, to discuss our Domestic Relations Statutes and get his thoughts on the subject. I believe the results of the meeting could be beneficial to future legislation. I would like to make his thoughts known to you and add a few of my own.

I explained to Judge Schultz that three local attorneys have told me it is literally impossible for a man to obtain child custody in this state, unless he can prove his wife to be unfit. I told him the attorneys all said the Courts refer to the Tender Years Doctrine (King vs. King, Superior Court, 1970) in deterring custody. (That ruling basically says that if everything is equal as far as the parents fitness is concerned, the children are better off with the mother.)

The Court often calls upon the Department of Health and Welfare to make investigations and recommendations in child custody suits. Marian Swain is in charge of this in Ketchikan. I met with her December 4, 1974, to discuss this issue. Before our meeting had ended she agreed that they begin their investigations with the biased attitudes of the Tender Years Doctrine and make their final recommendations accordingly. All this was also discussed with Judge Schultz.

Judge Schultz said he certainly was not aware of the Welfare Department's attitude concerning this. He also said that as far as he is concerned the Tender Years Doctrine is no longer legitimate because of many Court decisions made since that ruling. He did say, though, that it is quite possible that the doctrine still sways other judges decisions. He made ~~no~~ mention of the fact that we all have certain prejudice ideas that unintentionally sway our decisions at times.

He agreed that our present statutes give the Court almost unlimited authority in divorce proceedings and agreed that this authority could very easily be abused by unintentional, preconceived thoughts. As a whole, he thought our domestic relations statutes were pretty good compared to other states. When I asked if he thought any problems that may exist now, concerning divorce proceedings, could be alleviated through legislation, he had these suggestions to make:

1. Set specific guidelines that the Court must follow in determining custody of minor children. These guidelines would include taking the children's desires into consideration. He felt by doing this we would see more continuity in different Courts decisions.
2. Set specific guidelines for anyone doing an investigation to determine who the children's best interest would be with. (My thought: as it is now, much is left up to the investigator's discretion and too many of these people just are not qualified to make the decisions they are making. Guidelines they would have to follow, should pretty much take care of this problem.)
3. Investigator's reports should be made available to spouses involved.
4. The Judge should have to give the spouses involved, the reasons for his or her decision based on the guidelines that the legislature would provide. (My thought: I believe these two suggestions are excellent and believe it would provide everyone involved with a fair and impartial decision. It would also put the responsibility on the legislatures rather than individual judges. It would seem as if this is where the responsibility belongs since our legislatures are expressing the peoples wishes as a whole, in their legislation.
5. No fault divorce that could be obtained by simply filling out the required form, which would be provided, if there were no children involved. Judge Schultz said he felt this would save a lot of the Court's valuable time, not to mention the money it would save those people involved. Thus, effectively taking the profit out of divorce for attorneys.

I was very impressed with Judge Schultz and believe that anyone coming before his Court, would surely be treated equally and fairly. After thinking about the things he said and re-examining our statutes, I am inclined to agree with him that we have a pretty good set of laws concerning our Domestic Relations. I think the problems are coming more from the individual judges, investigators, and attorneys than from the statutes themselves. Rather than completely overhauling these statutes, I would like to offer these thoughts:

1. Write Judge Schultz's suggestions on guidelines into our statutes- which would include guidelines for awarding alimony and child support payments.
2. . Adopt a no fault clause.
3. Change any and all wording that makes any reference to sex. Where husband or wife is used, change to spouse. This would effectively give both spouses equal responsibilities, privileges and risk in marriage and divorce.

4. Specific guidelines for any Court orders pending a divorce proceeding. For example, removing either spouse from home, temporary restraining orders, and temporary child support and custody.

I have written the rest of the Superior Court Judges in the state, hoping to get some more input and facts.

I believe with what Judge Schultz has told me, it is imperative that a very close look be taken at the statistics I have requested from Juneau.

I have requested:

1. The number of divorces granted in the last five years involving children.
2. Of that number, how many were filed for by the men as compared to women?
3. Of the total that involved children, how many child custody cases were disputed?
4. Of that number, how many men won custody as compared to women?

I believe these figures could reveal the possibility of certain biased and unfair practices in our judicial system. Among other things I am wondering if men are getting the advice and representation they are paying for from their attorneys. I can not see what an attorney would have to gain by such a practice, but it certainly would be a very serious thing, and should be looked into if the possibility is supported by the state's cases already processed.

I would appreciate knowing where this possible legislation stands at present. I also would very much appreciate seeing any proposals that may be introduced.

I hope this material may be of some use to you.

Sincerely,

RJ:sm

Rudy Johnson

P.S. Judge Schultz said to say hello.

cc: Mr. Mike Bradner
State Representative
Pouch V
Juneau, Alaska, 99801

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

Pouch H01, Juneau 99811

~~XXXXXXXXXXXX~~

child rep file

February 25, 1975

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

In reply to your letter of February 4, 1975, information from the divorce statistical sheet is punched onto cards and kept on file with the Statistical Services Unit of the Department of Health and Social Services. Data is not available on the number of contested divorces involving children or to whom the children were awarded. We do have information on the total number of divorces involving minor children and the number of minor children involved. Attached is a table showing this data.

Information is also available on age and race characteristics of the husband and wife, the duration of the marriage, the number of previous marriages, and the education of the husband and wife. If you desire any breakdowns by these categories, additional time will be needed to compile the figures.

If there is any other way we may be of assistance, do not hesitate to call.

We might suggest the Alaska Court System as a source for the remainder of your questions.

Sincerely,

Francis S.L. Williamson
Francis S.L. Williamson
Commissioner

Attachment

Alaska Divorces Showing Number of Minor Children Involved 1970 - 1974

<u>Number of Children Involved</u>	<u>1974</u>	<u>1973</u>	<u>1972</u>	<u>1971</u>	<u>1970</u>
Total Divorces	2,224	2,051	2,139	1,746	1,694
0	1,004	877	883	718	670
1	501	473	511	433	376
2	402 ³⁸⁴	399 ⁷³⁸	403 ⁸⁰⁶	318 ⁶³⁶	309 ⁶¹⁸
3	169 ⁵⁰⁷	174 ⁵²²	168 ⁵⁰⁴	166 ⁴⁹⁸	137 ⁴¹¹
4	74 ²⁹⁶	75 ³⁰⁰	91 ³⁶⁴	48 ¹⁹²	94 ³⁷⁶
5	38 ¹⁹⁰	22 ¹¹⁰	25 ¹²⁵	27 ¹³⁵	44 ²²⁰
6	15 ⁹⁰	7 ⁴²	24 ¹⁴⁴	14 ⁸⁴	11 ⁶⁶
7	5 ³⁵	7 ¹¹⁹	10 ¹¹⁰	8 ⁵⁶	7 ⁴⁹
8	2 ¹⁶	2 ¹⁶	2 ¹⁶	1 ⁸	5 ⁴⁰
9+	3 ²⁷	3 ²⁷	1 ⁹	0	2 ¹⁸
NS	11	12	21	13	39
Total Children involved	2466	2270 2280	2549	2042	2174

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF ADMINISTRATIVE SERVICES
STATISTICS SECTION

Jay S. Hammond, Governor

POUCH H 02E
JUNEAU, ALASKA 99811


January 9, 1975

Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Mr. Johnson:

The information you requested is not readily available. Due to a shortage of manpower and available computer time we can only answer requests on a time available basis. There is an extensive backlog of requests and I can give no commitment to when yours might be completed.

Sincerely,



Thaddeus J. Miller
Research Analyst

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

Pouch H01, Juneau 99811

~~POUCH H01, JUNE 99811~~

April 7, 1975

The Honorable Terry Gardiner
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Gardiner:

In reply to your letter of March 7 we are pleased to submit the following information concerning total number of divorces over the past five years involving children and the number filed by men as compared to women.

Year	Number Filed by Men	Number Filed by Women	Total
1970	306	679	985
1971	317	698	1,015
1972	377	862	1,239
1973	394	773	1,167
1974	446	876	1,322

We keep no records relating to disputed cases as this is a function of the Alaska Court System and the information does not appear on the divorce document.

Our information is gleaned from the divorce document and only basic statistical information is kept. This also holds true for information concerning custody.

Honorable Terry Gardiner

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April 7, 1975

May we suggest that these same questions be asked of the Court System, they may be able to give you more assistance in areas of dispute and custody.

If there is any other way we might be of assistance, do not hesitate to ask.

Sincerely yours,

Francis S. Williamson
Francis S.L. Williamson
Commissioner